

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GAETANO DEVELOPMENT CORP., GATEWAY
IV, LLC, and HARTFORD FIRE INSURANCE
COMPANY a/s/o Gateway IV, LLC,

Judge Rakoff

Plaintiffs,

Case No.: 09-CV-10090

-against-

GOODMAN MANUFACTURING COMPANY, L.P.,
GOODMAN COMPANY, L.P. and GOODMAN
GLOBAL, INC.

Defendants.

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GOODMAN COMPANY, L.P.

Third-Party Plaintiff,

-against-

TOWER MANUFACTURING CORPORATION,

Third-Party Defendant

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TOWER MANUFACTURING CORPORATION,

Second Third-Party Plaintiff,

-against-

EVEREX COMMUNICATIONS, INC., PRIME
TECHNOLOGY (GUANGZHOU), INC.,
CONNECTICUT PTAC SERVICES, LLC, and
COOL TECH HVAC SERVICE, LLC

Second Third-Party Defendants.

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EVEREX COMMUNICATIONS, INC'S NOTICE OF SUMMARY JUDGMENT MOTION

PLEASE TAKE NOTICE THAT, on March 17, 2011, at 5:00 PM, or as soon thereafter as counsel may be heard, Second Third-Party Defendant Everex Communications, Inc. ("Everex") shall move pursuant to Rule 56 of the Federal Rules of Civil Procedure, for summary judgment on the following grounds:

1. dismissing Third-Party Defendant/Second Third-Party Plaintiff Tower Manufacturing Corporation's ("Tower") contribution claims against Everex based upon New York General Obligations Law § 15-108;
2. dismissing Tower's common law indemnification claims against Everex because Third-Party Plaintiff Goodman Company L.P. is not free from fault;
3. dismissing Tower's common law indemnification claims against Everex because Tower is not free from fault;
4. dismissing Tower's complaint against Everex based upon a lack of evidence of product defect, causation or negligence.

PLEASE TAKE FURTHER NOTICE, that pursuant to this Court's directives, Everex's Statement of Material Facts on its Motion for Summary Judgment (pursuant to Local Rule 56.1), together with declaration(s) and memorandum of law in support of Everex's motion, shall be filed on or before February 14, 2011; opposition to Everex's motion, together with any supporting papers, shall be filed on or before February 28, 2011; and reply papers on Everex's motion shall be filed on or before March 7, 2011.

Dated: Melville, NY
February 9, 2011

SPEYER & PERLBERG, LLP
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EVEREX COMMUNICATIONS, INC.

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TO: SEE SERVICE LIST ATTACHED

CERTIFICATE OF SERVICE

I, James M. O'Hara, hereby certify and affirm that a true and correct copy of the attached Notice of Summary Judgment Motion has been served via ECF upon the following parties on February 9, 2011:

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